

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,)
Plaintiff,)
v.)
GREGORIO ANTUNEZ-MORA,)
Defendant.)

CASE NO. CR05-327 JCC M

DETENTION ORDER

Offense charged:

Count I: Possession of Methamphetamine with Intent to Distribute, in
violation of Title 21, U.S.C., Sections 841(a)(1) and 841(b)(1)(A).

Date of Detention Hearing: August 29, 2005.

The Court, having conducted a contested detention hearing pursuant to Title 18
U.S.C. § 3142(f), and based upon the factual findings and statement of reasons for detention
hereafter set forth, finds that no condition or combination of conditions which the defendant
can meet will reasonably assure the appearance of the defendant as required and the safety
of any other person and the community. The Government was represented by Douglas
Whalley. The defendant was represented by Lennard Nahajski.

The Government argued for detention, emphasizing the strength of its case as the

1 charge includes drug sales to an undercover informant, namely a King County Deputy
2 Sheriff. Additionally, the Government asserts that the defendant faces a 20 year minimum
3 sentence based on his prior VUSCA conviction, thereby providing ample motivation to
4 flee.

5 The defense opposes detention, asserting that nothing indicates that the defendant
6 poses a threat to the community. The defense maintains that the defendant has been living
7 in the Seattle area for 27 years, that he is a legal resident having had a green card for 20
8 years, and that he has strong ties to this district as family and friends reside in the area. The
9 defense moves for release of the defendant with the understanding that he must remain in
10 contact with his attorney and the court.

11 FINDINGS OF FACT AND STATEMENT OF REASONS FOR DETENTION

12 (1) There is probable cause to believe the defendant committed the drug
13 offense. The maximum penalty is in excess of ten years. There is
14 therefore a rebuttable presumption against the defendant's release based
15 upon both dangerousness and flight risk, under Title 18 U.S.C. §
16 3142(e).

17 (2) Nothing in this record satisfactorily rebuts the presumption against
18 release for several reasons: Using the factors below, under Title 18 §
19 3142 (g), the Court considered the following:

20 (a) The nature and circumstances of the offense charged, including
21 whether the offense is a crime of violence or involves a narcotic
22 drug.

23 The instant offense involves the sales of methamphetamine to an
24 undercover informant and surveillance of the defendant's drug
25 activity.
26

1 (b) The weight of the evidence.

2 The Court finds the weight of the evidence in the instant offense
3 to be significant. The charge involves surveillance of the
4 defendant's activity and drug sales to an undercover informant.
5 The Complaint indicates that, upon execution of a State search
6 warrant, the drugs found in the defendant's residence were
7 packaged for resale, the quantity of drugs being much higher than
8 necessary for personal use. Further corroborating the drug
9 distribution charges, the Complaint noted that a large sum of
10 money was also hidden in the defendant's residence, presuming it
11 to be proceeds from drug sales.

12 (c) The history and characteristics of the person, including:
13 the person's character, physical and mental condition, family ties,
14 employment, financial resources, length of residence in the
15 community, community ties, past conduct, history relating to drug
16 or alcohol abuse, criminal history, record concerning appearance
17 at court proceedings, and whether at the time of the current
18 offense or arrest, the person was on probation, on parole, on other
19 release pending trial, sentencing, appeal, or completion of
20 sentence of an offense under Federal, State, or local law.

21 The U.S. Pre-trial Services viewed the defendant as a risk of
22 nonappearance based on his unknown/unverified background and
23 personal history based upon lack of an interview. The Court is
24 concerned by the fact that the defendant is not gainfully
25 employed, which further lessens his ties to this district.
26 Additionally, absence any factors to rebut it, the Court believes

1 there is a strong incentive to flee given the 20-year mandatory
2 minimum sentence the defendant faces based on his prior VUCSA
3 conviction.

4 (d) Risk of danger to the community.

5 The Court finds the defendant to be a risk to the community based
6 on past convictions which are similar in nature to the instant
7 offense.

- 8 (3) Based upon the foregoing information which is consistent with the
9 recommendation of U.S. Pre-trial Services, it appears that there is no
10 condition or combination of conditions that would reasonably assure
11 future Court appearances and/or the safety of other persons or the
12 community.

13 **It is therefore ORDERED:**

- 14 (1) The defendant shall be detained pending trial and committed to the
15 custody of the Attorney General for confinement in a correction facility
16 separate, to the extent practicable, from persons awaiting or serving
17 sentences or being held in custody pending appeal;
- 18 (2) The defendant shall be afforded reasonable opportunity for private
19 consultation with counsel;
- 20 (3) On order of a court of the United States or on request of an attorney for
21 the Government, the person in charge of the corrections facility in which
22 the defendant is confined shall deliver the defendant to a United States
23 Marshal for the purpose of an appearance in connection with a court
24 proceeding; and

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1 (4) The clerk shall direct copies of this order to counsel for the United
2 States, to counsel for the defendant, to the United States Marshal, and to
3 the United States Pre-trial Services Officer.

4 DATED this 7th day of September, 2005.

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8 Monica J. Benton
9 United States Magistrate Judge
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